

OPINION
53-45

June 2, 1953 (OPINION)

GAME AND FISH

RE: Private Propagation of Blackneck Pheasants

You state that a private person has informed you that he intends to raise Blackneck Pheasants on his farm, and to allow persons who pay him for the privilege to hunt them on the farm "regardless of whether or not the farm lies within an area which has been determined as an open pheasant area and regardless of whether or not the shooting would be done within the period prescribed by the Governor's Proclamation as open for the legal taking of pheasants."

You ask our opinion as to the legality of this procedure.

Subsection 6 of section 200101 of the North Dakota Revised Code of 1943 defines game birds as follows:

"6. 'Game birds' shall include any and all varieties of geese, brant, swans, ducks, plovers, snipes, woodcocks, grouse, sage-hens, pheasants, Hungarian partridges, quails, partridges, cranes, rails, coots, and doves;"

Blackneck pheasants clearly are, under this definition, game birds if they are allowed open range and are unconfined.

If this person intends to raise and domesticate these birds, he may do so under a permit issued by your department under the provisions of chapter 20-09 of the North Dakota Revised Code. If, however, they are allowed to roam at large, they become game birds. As game birds they are protected by all the provisions of law relating to game birds.

ELMO T. CHRISTIANSON

Attorney General